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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,330	08/04/2003	Harald Kloeckner	FA1144USNA	6775

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WILMINGTON, DE 19805

EXAMINER

TSOY, ELENA

ART UNIT	PAPER NUMBER
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1762

DATE MAILED: 01/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/634,330

Applicant(s)

KLOECKNER ET AL.

Examiner

Elena Tsoy

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

Amendment filed on 11/21/2005 has been entered. Claim 1 has been cancelled. New claims 12-18 have been added. Claims 2-18 are pending in the application.

Abstract

1. Abstract of proper language and format has been noted.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 2-8, 10-15, 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hellmann et al (US 5,412,000) in view of Ozawa et al (US 5,492,963), further in view of Shiraishi et al (US 6,670,414).

Hellmann et al in view of Ozawa et al are applied here for the same reasons as set forth in paragraph 3 of the Office Action mailed on 7/26/2005. Hellmann et al in view of Ozawa et al fail to teach that: (i) at least one binder selected from the group consisting of polyurethane, acrylated polyurethane, polyacrylate, polyester, acrylated polyester and alkyd resins and any combinations thereof has been added to the coating composition (Claims 2, 3); (ii) the coating composition is water-based composition (Claim 16).

As to (i), Shiraishi et al teach that alkyd resin, acrylic resin, polyester resin, polyurethane resin, epoxy resin, etc. may be added in amounts of 1 to 49 wt. % (solids) to a binder resin

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composition having a mixture of containing chlorinated polyolefin with the ethylene-vinyl acetate copolymer for application on polyolefinic substrates (See column 5, lines 39-47).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have added alkyd resin, acrylic resin, polyester resin, polyurethane resin may be added to a coating composition of Hellmann et al in view of Ozawa et al comprising chlorinated polyolefin with the ethylene-vinyl acetate copolymer and epoxy resin since Shiraishi et al teach that alkyd resin, acrylic resin, polyester resin, polyurethane resin, epoxy resin, etc. may be added in amounts of 1 to 49 wt. % (solids) to a binder resin composition having a mixture of containing chlorinated polyolefin with the ethylene-vinyl acetate copolymer for application on polyolefinic substrates.

As to concentration limitations, it is held that generally, differences in concentration will not support the patentability of subject matter encompassed by the prior art unless there is evidence indicating such concentration or temperature is critical.

4. Claims 3, 12-15, 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shiraishi et al in view of Ozawa et al.

Shiraishi et al disclose a method for painting motor vehicles and motor vehicle parts having plastics surfaces (plastic substrates) (See column 1, lines 23-25), comprising applying a pigmented (See column 5, line 55) a binder resin composition directly to the plastic substrate (See column 2, lines 66+), and curing the pigmented paint layer thus obtained (See column 3, lines 17-25), wherein the binder resin composition comprises ethylene/vinyl acetate copolymer and chlorinated polyolefin with chlorine content of 5-50 wt % in a weight ratio of from 90/10 to 10/90 (See column 5, lines 29-38), from about 1-49 wt of alkyd resin, acrylic resin, polyester resin, polyurethane resin, epoxy resin, etc. (claimed conventional binder), d) 50-10,000 parts per

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100 parts of the resin composition of organic solvents (See column 5, lines 48-53), and optionally paint auxiliaries (See column 6, lines 10-11). The binder resin composition can be used as a base paint or primer (See column 3, lines 21-23).

Shiraishi et al fail to teach that the binder resin composition further comprises chlorinated rubber (Claim 3) in an amount of 0.5-10 wt % (Claim 14).

Ozawa et al teach that chlorinated natural and synthetic rubbers have been found to provide excellent film-forming properties, adhesional affinity for vulcanizing elastomers, and environmental resistance (See column 1, lines 18-29). Chlorinated polyolefins having significantly high chlorine contents of 60-75 wt % (See column 2, lines 38-39) provide performance *equivalent* to or greater than the performance provided by the **traditional chlorinated rubber** materials utilized in adhesive compositions to provide effective adhesional affinity for vulcanizing rubber, and environmental resistance (See column 2, lines 3-16). In other words, Ozawa et al teach that chlorinated rubber has adhesive properties to plastics that are superior to that of chlorinated polyolefins having chlorine contents of much less than 60 wt %.

It is held that it is prima facie obvious to combine two compositions each of which is taught by the prior art to be useful for the same purpose, in order to form a third composition to be used for the very same purpose....

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used a combination of chlorinated polyolefins of Shiraishi et al with chlorinated natural and synthetic rubbers of Ozawa et al since each of them are used for the same purpose.

As to concentration limitations, it is held that generally, differences in concentration will not support the patentability of subject matter encompassed by the prior art unless there is

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evidence indicating such concentration is critical. It is also held that it is not inventive to discover the optimum or workable ranges of result-effective variables by routine experimentation. In re Antonie, 559 F.2d 618, 195 USPQ 6 (CCPA 1977). See also In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have determined the optimum values of the relevant concentration parameters (including those of claimed invention) in Shiraishi et al in view of Ozawa et al through routine experimentation in the absence of showing of criticality.

5. Claims 2, 4-8, 10, 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shiraishi et al in view of Ozawa et al, further in view of Hellmann et al.

Shiraishi et al in view of Ozawa et al are applied here for the same reasons as above. Shiraishi et al in view of Ozawa et al fail to teach that the method further comprises applying a clear coat to the dried/cured base paint and curing the clear coat (Claim 2).

Hellmann et al teach that after drying/curing a primer coating layer, a typical finishing paint may then be applied to the dried/cured layer (See column 3, lines 26-28). One of ordinary skill in the art would recognize that the typical finishing paint includes clear top coat.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have coated a base paint of Shiraishi et al in view of Ozawa et al with a typical finishing paint such as a clear top coat since Hellmann et al teach that after drying/curing a primer coating layer, a typical finishing paint may then be applied to the dried/cured layer.

6. Claims 9 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hellmann et al in view of Ozawa et al in view of Shiraishi et al/Shiraishi et al in view of Ozawa

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et al/Shiraishi et al in view of Ozawa et al in view of Hellmann et al/, further in view of Heaps et al (US 4,517,327) and Corcoran et al (US 5,279,862).

Hellmann et al in view of Ozawa et al in view of Shiraishi et al/Shiraishi et al in view of Ozawa et al/Shiraishi et al in view of Ozawa et al in view of Hellmann et al/ are applied here for the same reasons as above. Hellmann et al in view of Ozawa et al in view of Shiraishi et al/Shiraishi et al in view of Ozawa et al/Shiraishi et al in view of Ozawa et al in view of Hellmann et al/ fail to teach that the colour-imparting coating composition is a water-based coating composition.

Heaps et al teach that because of greater environmental concerns today, efforts are being made to convert from solvent-based coatings to water-based coatings (See column 1, lines 15-23).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have converted solvent based coating composition to water-based coating composition in Hellmann et al in view of Ozawa et al in view of Shiraishi et al/Shiraishi et al in view of Ozawa et al/Shiraishi et al in view of Ozawa et al in view of Hellmann et al/ since Heaps et al teach that because of greater environmental concerns today, efforts are being made to convert from solvent-based coatings to water-based coatings.

Corcoran et al teach that in applying the clear coating composition to a vehicle such as an automobile or a truck for a repair or repainting, the basecoat which may be either a solvent based composition or a waterborne composition is first applied and then dried to at least remove solvent or water before the clear coat is applied (See column 4, lines 48-50).

One of ordinary skill in the art at would have reasonable expectation of success of using water based coating composition in Hellmann et al in view of Ozawa et al in view of Shiraishi et

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al/Shiraishi et al in view of Ozawa et al/Shiraishi et al in view of Ozawa et al in view of Hellmann et al/ instead of solvent based coating composition since Corcoran et al teach that in applying the clear coating composition to a vehicle such as an automobile or a truck for a repair or repainting, the basecoat which may be either a solvent based composition or a waterborne composition is first applied and then dried to at least remove solvent or water before the clear coat is applied.

Response to Arguments

7. Applicant's arguments with respect to claims 2-18 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elena Tsoy whose telephone number is 571-272-1429. The examiner can normally be reached on Monday-Thursday, 9:00AM - 7:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy Meeks can be reached on 571-272-1423. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Elena Tsoy
Primary Examiner
Art Unit 1762

ELENA TSOY
PRIMARY EXAMINER



January 10, 2006